

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

STEPHEN SPILKER,

Plaintiff,

v.

Case No: 6:19-cv-2206-Orl-41DCI

**EASTERN FLORIDA STATE
COLLEGE,**

Defendant.


ORDER

THIS CAUSE is before the Court on Defendant's Motion to Dismiss ("Motion," Doc. 22). United States Magistrate Judge Daniel C. Irick issued a Report and Recommendation ("R&R," Doc. 29) in which he recommends granting in part and denying in part the Motion. (*Id.* at 10–11). After a *de novo* review of the record, and noting that no objections were timely filed, this Court agrees with the analysis set forth in the R&R. Accordingly, it is **ORDERED** and **ADJUDGED** as follows:

1. The Report and Recommendation (Doc. 29) is **ADOPTED** and **CONFIRMED** and is made a part of this Order.
2. Defendant's Motion to Dismiss (Doc. 22) is **GRANTED in part** and **DENIED in part**.
 - a. Plaintiff's § 1983 claim is **DISMISSED with prejudice**.
 - b. Plaintiff's remaining claims are **DISMISSED without prejudice**.
 - c. In all other respects, the Motion is **DENIED**.

3. Plaintiff filed an Amended Complaint (Doc. 30) prior to the entry of this Order, without leave of the Court to do so. The Court construes the filing of the Amended Complaint as a request for leave to do so and accepts the Amended Complaint as properly filed.¹

DONE and **ORDERED** in Orlando, Florida on March 11, 2020.



CARLOS E. MENDOZA
UNITED STATES DISTRICT JUDGE

Copies furnished to:

Counsel of Record
Unrepresented Party

¹ Given the current posture of this case, Plaintiff may not file an Amended Complaint without the opposing party's written consent or leave of the Court. *England v. United States Fed. Credit Union*, No. 6:08-cv-326-Orl-19GJK, 2008 U.S. Dist. LEXIS 30362, at *3 n.1 (M.D. Fla. Apr. 1, 2008) (citing Fed. R. Civ. P. 15(a)(2)). For the purposes of judicial efficiency, the Court accepts the Amended Complaint as properly filed. However, in the future, Plaintiff is cautioned that failure to comply with the Federal Rules of Civil Procedure or the Court's Local Rules may result in the imposition of sanctions, including dismissal of this case without further notice.